

CITY ETHICS COMMISSION

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**REGULAR MEETING OF THE
LOS ANGELES CITY ETHICS COMMISSION**

**Tuesday, October 12, 2010
9:30 a.m.**

**City Hall, Room 1050 – 10th Floor
200 North Spring Street
Los Angeles, CA 90012**

APPROVED

1. Call to Order.

Commissioner Helen Zukin called the meeting to order at 9:35 a.m.

Present: Canter, Jenkins, Turner, Vanaman, and Zukin.

2. Public Comment

There was no public comment.

3. Approval of draft minutes for the meeting of September 14, 2010.

Nedra Jenkins moved to approve the draft minutes for September 14, 2010, and Marlene Canter seconded. The minutes were approved 5-0.

4. Consideration of and action on statements of economic interests for commission and department head SEI reviews [Shannon Prior].

Program Analyst Shannon Prior recommended that the Commission approve cautionary letters for Ms. Theresa Macellaro, Ms. Joyce L. Foster, Mr. David Marquez, Ms. Rochelle Mills, Mr. Michael Ponce, Ms. Carolina Castillo, Ms. Deborah Davies, Ms. Angela Pinto, Mr. Dwayne Gathers, Mr. Neal Moritz, Ms. Tara Hamacher, Mr. David W. Louie, Ms. Robin Kramer, Mr. Francisco De Vivo, Mr. James Zaferis, Ms. Carlene Davis, and Ms. Stephanie M. Rodriguez and standard letters for Ms. Felicia Fasano, Ms. Yasmin Delahoussaye, Mr. JC Lacey, and Ms. Marissa Castro-Salvati.

Valerie Vanaman asked why there are more nominations this month than in previous months, and Prior explained that many of the commission and board members are reappointed in the summer and fall.

Jenkins moved to accept the recommendations, and Vanaman seconded. The letters were approved 5-0.

5. Executive director's report [*LeeAnn Pelham*].

Executive Director LeeAnn Pelham presented the report and noted that the most recently completed public audit reports were attached to her written report. She also highlighted that graduate students from the University of Southern California will be working with the Commission on research issues related to campaign contributions and government decision-making. Pelham explained that the students will be working with Senior Program Analyst Jennifer Bravo and the Policy and Legislation Division on this project. Canter asked if the students can come and present their findings to the Commission, and Pelham said that is certainly possible, if the Commission so desires.

Vanaman asked what progress has been made on the executive director search. Zukin said that could be discussed under Item 10 (announcements and requests to schedule items on future agendas), so the Commission took that item out of order.

10. Announcements and requests to schedule items on future agendas.

Zukin explained that the search committee made up of her and Commissioner Canter, met with Pelham and the executive search team from the Personnel Department, at which they reviewed resumes and cover letters from applicants so that the subcommittee could decide which individuals to interview for the position. Zukin said that nine applicants will be interviewed on October 18 and 19. The top candidates will then be brought before the full Commission for one or two interviews. Jenkins asked if the subcommittee will use a form when the applicants are interviewing, so that all of the commissioners can evaluate the candidates based on the same criteria. Zukin replied that the Personnel Department has a list of criteria and a rating sheet that the Commission can use. Deputy City Attorney Renee Stadel noted that the interview with the full Commission will be held in closed session. Jenkins asked the subcommittee to take detailed notes of the initial interviews for the full Commission's review. Vanaman asked if the interviews of the candidates before the full Commission will take place at the next Commission meeting. Stadel explained that it could be at the next meeting or at a specially scheduled Commission meeting. Turner asked if Police Commissioner Robert Saltzman will be playing an advisory role in the executive director search or participating in making a decision. Zukin explained that the subcommittee has consulted with him, but the final determination will be made by the full Commission.

6. Policy and legislation report [*Heather Holt*].

Director of Policy and Legislation Division Heather Holt said that she did not have anything to add to the written report but would be happy to answer questions. Vanaman noted that the Commission invested a significant amount of time in submitting recommendations to the Council regarding the Municipal Lobbying Ordinance, but the Rules & Elections

Committee has not moved it forward. Vanaman asked if staff believes that the Council will ever take up those recommendations. Holt said that she has been told that it will, but not immediately. Vanaman asked if the item dealing with financial disclosure by neighborhood councils is still pending with the Council. Holt noted that that item was not initiated by the Commission and that it is still pending with the Education & Neighborhoods Committee. Turner asked how many neighborhood council files have been initiated this year, and Holt said that no neighborhood council files have been submitted. Vanaman asked if the council files related to ranked choice voting are going to expire on October 24. Holt explained that only two of the four files will expire then. A new council file number was created when the City Clerk submitted the report for the ranked choice voting working group, so that matter will not expire for another two years. Vanaman asked where the item regarding independent expenditure disclosure is pending and who on the Commission's staff is responsible for responding to this motion. Holt said that the item is pending with the Rules & Elections Committee and that the Policy and Legislation Division is responsible for working with the City Attorney on this item. Vanaman asked what the status is on the report regarding the follow-up on campaign finance reform. Holt said that Item 7 largely answers many of the questions, and she needs to follow-up with Councilman Huizar's office to verify that the item satisfies their concerns. Vanaman asked that a date be added to items on the legislative update that are pending with the Ethics Commission, to indicate when they will be considered. Vanaman also asked that, when items on the update refer to other items on the same agenda, a note be included to specify that the additional item is part of the same agenda.

Canter expressed concern that these reports send the message that the Commission has a passive role with the City Council and asked if there is any precedence for the Commission asking a committee chair to meet with them to discuss timelines and schedules. Holt said that interacts with City Council staff after an item leaves the Commission and that scheduling is up to the City Council. She explained that she is not aware of a precedent but said she thinks it is a good idea. Zukin said she would like to set up a time to speak with City Council members regarding issues that are pending with them.

Zukin took Item 9 out of order.

9. Consideration of and possible action on proposed stipulated settlements:

- a. *In the Matter of Adeena Bleich and Adeena Bleich for City Council 2009, CEC Case No. 2010-21 (alleged campaign communication reporting violations) [Deena Ghaly & Artin Berjikly].***

Ghaly presented the item and highlighted that the first stipulation is regarding Adeena Bleich and her committees during the March 2009 election for Council District number five. The violations involved are four counts of failure to file scripts for recorded telephone calls in violation of Los Angeles Municipal Code § 49.7.26(e). The recommended fine is \$500 per violation for a total of \$2,000. This fine, Ghaly noted, is based on mitigating factors listed in the report.

Jenkins moved to accept staff's recommendations, and Vanaman seconded. The motion passed, 5-0.

b. *In the Matter of Rox Consulting Group, Inc., et al [Richard Manuck], CEC Case No. 2009-10 (alleged political money laundering) [Deena Ghaly & Nilon Seals III].*

Ghaly noted that this stipulation involves Richard Manuck who was an employee of Rox Consulting. The stipulation charges Mr. Manuck as acting as a conduit in a political money laundering scheme in violation of Los Angeles Charter § 470(k). The recommended fine is a dollar for dollar amount of the total money improperly contributed. Jenkins asked what position Mr. Manuck held within Rox Consulting, and Ghaly noted that he was a consultant. Senior Investigator Nilon Seals III explained that Mr. Manuck's position as a consultant involved work on land use and development projects.

Canter stated her concern with the small amount of the fine, and asked what the rationale was behind the recommendation. Ghaly stated that this case involves a respondent being charged with acting as a conduit in a political money laundering scheme, and their role is considered to be different than the money laundering schemer. Canter asked what will happen in the case involving the owners of Rox Consulting, and Ghaly stated that the case against the employer and his company is still pending. She noted that this case has been criminally prosecuted.

Jenkins expressed her concern with categorizing the CFO of Rox Consulting Shadi Dejanghooy as a conduit—she views the CFO as being more deeply involved in the scheme than simply as a conduit. Vanaman stated that she is concerned with the language being used in the stipulation that states that the respondents cooperated with the investigation—she thought that this might be an overstatement. Ghaly noted that when there are concurrent administrative and criminal investigations going on, there are times when respondents may be caught between exercising their Fifth Amendment rights, and their opportunity to mitigate through full cooperation with the administrative investigation. She explained that the Commission's staff worked with the District Attorney's Office to try to work through these types of issues with the respondents so that they are not testifying in such a way that would force them to incriminate themselves.

Zukin explained that she believes that money laundering is very serious, and that given the fact that the respondent is a consultant, and possibly has other clients, that the fine is too low. The Commission continued this item until later in the meeting, to hear testimony from Council President Eric Garcetti on Item 7.

7. Consideration of and possible action on possible ballot measures to repeal certain campaign finance Charter provisions, eliminate the cap on Matching Funds Trust Fund, and prohibit campaign contributions from entities that bid on City contracts [Heather Holt].

Garcetti testified on Item 7 and stated that this possible ballot measure is important, because it will protect elected officials from being influenced, or being perceived to have been influenced, by individuals and entities seeking City contracts. He noted that he initially looked at the laws that Metro has restricting campaign contributions from persons with Metro contracts but has moved away from that model on the advice of the City Attorney. He hopes to find a balance between the Metro model and the laws that the City currently has. The message he wants to send to the public is that City contracts are not for sale and that contracts are granted based on the qualifications of the contractor. Garcetti said that the proposal looks at prohibiting donations to elected officials from entities and their upper management who are seeking a City contract for a period time. He noted that he has personally refused donations from anyone involved in a development project that he must decide on, for six months before and six months after that decision. Garcetti stated that it is hard to predict when contracts are going to go out, and he suggested that the ban should begin when the contract actually goes out for proposal. He also noted that it would be unreasonable to ban all contractors from contributing for the life of the contract, so he suggested a ban on contractors for six months to a year after the contract is awarded.

Garcetti said he was interested in hearing the Commission's opinion on who the restriction should apply to; whether the ban should apply to contributions as well as fundraising; whether subcontractors should be included and if there should be a threshold for subcontractors; what types of contracts should be included; and if the ban should apply to amendments and extensions. Garcetti recommended against putting the onus on elected officials, but rather on the entities and individuals seeking business with the City. He suggested that there should be a box on contribution forms affirming that donors are not currently upper management of or an entity seeking a City contract.

Canter said she supports the recommendation but believes there should be very strict rules on the entities and upper management of entities seeking business with the City. She noted that she thinks the ban should also apply before a contract is announced. Garcetti replied that he supports the concept, but that may be difficult until the City decides to change the computer system that tracks contracts. Canter asked how a contractor database can be achieved, and Garcetti said that a contractor database should be spearheaded by the Mayor. Vanaman said the staff is recommending excluding contracts that are not approved by elected officials and asked if that seems like a reasonable recommendation. Garcetti said that it makes sense on a certain level, because there are some contracts that never go before elected officials and are approved by commissions. However, the commissioners are appointed by elected officials. He said that would be more about protecting the perception of corruption.

The Commission returned to Item 10.

10. Announcements and requests to schedule items on future agendas.

Zukin said that the Commission noticed items on the legislative update on which they had spent a significant amount of time (such as the proposed changes to the Municipal Lobbying Ordinance) and on which the City Council has not taken action. She noted that it is hard for the Commission to fulfill their mandate if the City Council does not take timely action. Garcetti noted that, although things have not been resolved, it does not mean that they have not been addressed. He said that he discussed with Commissioner Canter the idea of having a joint Rules & Election Committee and Ethics Commission meeting. He noted that there are many different perspectives on issues, and sometimes it takes a lot of time to consider every aspect of these types of issues. Jenkins said that a lot of time was spent hearing input from the community and trying to respond to the real-world concerns in the review of the lobbying ordinance. Zukin said that she recognizes the advisory nature of the Ethics Commission but would like to have the confidence that the Commission's recommendations will be addressed and decided upon.

Garcetti reviewed the items on the legislative update, to explain the progress of each item. He noted that there was just a meeting with some neighborhood councils about revisiting the disclosure issue, because it has prevented neighborhood councils from creating council files. He said that ranked choice voting was just taken up by the Rules & Elections Committee, but it is his sense that a majority of Council members are not behind the issue. He noted that campaign finance reform with regard to full public financing is pending with the Rules & Elections Committee, but it does not appear to have the support of the full Council. Canter asked staff to plan a joint meeting with the Rules & Elections Committee and Ethics Commission.

The Commission returned to Item 9.

9. Consideration of and possible action on proposed stipulated settlements:

b. *In the Matter of Rox Consulting Group, Inc., et al [Richard Manuck], CEC Case No. 2009-10 (alleged political money laundering) [Deena Ghaly & Nilon Seals III].*

Jenkins asked staff to explain the position that the respondent Mr. Manuck held at Rox Consulting. Ghaly explained that in the event there was a hearing on this case, staff would go in to detail about Mr. Manuck's position and involvement in Rox Consulting, however, for purposes of this investigation, on the item that is before the Commission, those details were not used in the determination of the penalty amount. Jenkins said that she would like more factual information in the stipulations that come before the Commission so that she can make a well informed decision. Vanaman agreed with Jenkins, and noted that she also would like more detailed factual information to make a sound and reasoned decision regarding the cases that come before the Commission. Ghaly stated that there are several factors that are relevant to the issue of including more detail in the stipulation reports. She said that the fines are regressive—some respondents can raise money to pay the penalty amount, others are very wealthy, and some cannot afford the fine because they are

unemployed. She said that staff does take into account financial hardship if the respondent can prove such a burden. Ghaly explained that even though the respondent in this case is a consultant, it does not necessarily mean that he understood the laws relevant to this violation. Jenkins noted that it would be relevant to her to know this kind of information.

Zukin asked if the Commission had enough information to make a decision on this item. Vanaman asked if any of the respondents in Item 9 are represented by legal counsel, and Ghaly stated that they are not currently represented. Vanaman noted that the template language in the stipulation report does not provide enough information, and would like to see that change in the future. Canter said that she would like to vote on this item today, but would like the staff to recognize that in the future, the stipulation reports should include more detailed factual information.

Canter moved to accept the staff's recommendation, and Turner seconded. Jenkins asked if Mr. Manuck is still working for Rox Consulting, and Ghaly stated that he is not. Jenkins asked how much business Mr. Manuck was doing with Rox Consulting in 2005, and Seals said that Mr. Manuck made over \$60,000 from 2005 until 2006. Seals said that he did not know whether Rox Consulting was the respondent's only client, and he did not appear to know that he was violating the law. The motion passed 5-0.

c. *In the Matter of Rox Consulting Group, Inc., et al [Alireza Tamadon], CEC Case No. 2009-10 (alleged political money laundering) [Deena Ghaly & Nilon Seals III].*

Vanaman moved to accept the staff's recommendation, Canter seconded. Jenkins asked what the respondent's position was with Rox Consulting Group, and Ghaly noted that Alireza Tamadon was an Engineer and married to the respondent in item 9d. Vanaman asked what mitigating factors were used in the fining approach used in this case, and Ghaly noted that the respondent had lost his job, had children, and financial hardship. The motion passed 4-1.

The Commission took a five-minute break.

d. *In the Matter of Rox Consulting Group, Inc., et al [Shadi Dejamkhooy], CEC Case No. 2009-10 (alleged political money laundering) [Deena Ghaly & Nilon Seals III].*

Ghaly presented this item and highlighted that the staff came to the conclusion that the respondent acted as an executive assistant, and did not act as a CFO, her official title. Ghaly said that the respondent was not aware that she was breaking the law. Jenkins asked how many employees the company had, and Seals noted that at the time of the investigation there were only twelve employees. Jenkins asked how Dejamkhooy became the CFO, and Seals noted that he believes it is because of her relationship with the owner of the company, and her ethnic background. Jenkins asked what the respondent's educational background is and current employment status is, and Seals noted that she had a degree in computer science, and is not currently employed as far as he knows.

Canter moved to accept staff's recommendations, and Vanaman seconded. The motion passed 5-0.

The Commission returned to Item 7.

7. Consideration of and possible action on possible ballot measures to repeal certain campaign finance Charter provisions, eliminate the cap on Matching Funds Trust Fund, and prohibit campaign contributions from entities that bid on City contracts [Heather Holt].

Holt presented the item and noted that the last day for the City Council to ask the City Attorney to draft ballot measures for the March 2011 election is November 3. The Rules & Elections Committee is considering a number of possible ballot measures, and three of them affect campaign financing. The committee considered them on September 29 and will take them up again on October 20.

Holt explained that the first ballot measure was requested by the City Attorney and would repeal three sections of the Charter. Two of the provisions establish contribution limits for independent expenditure committees, and the third places some restrictions on wealthy candidates and raises contribution limits for their opponents in certain circumstances. Holt explained that the Commission previously resolved to not enforce those provisions because of recent Supreme Court decisions, but the City Attorney believes those provisions should be repealed in order to clarify City law. Vanaman moved to accept staff's recommendation regarding the repeal of those three Charter provisions, and Jenkins seconded. Turner asked why this item has to go to the voters and what would happen if the voters reject it. Holt explained that the voters must approve any changes to the Charter, and if they do not approve these changes the provisions would still not be enforced. Holt noted that the City is subject to possible litigation if these provisions remain in the Charter. Turner expressed his concern with how the ballot measure description will be written, and Pelham suggested that the transmittal could include the Commission's position on the matter and the reasons for the necessary repeal. The motion passed 5-0.

Holt explained that the next ballot measure would eliminate the cap on the Matching Funds Trust Fund. She explained that the Matching Funds Trust Fund is money that is set aside each year by Charter mandate and is used exclusively to help fund publicly financed candidates. She noted that staff recommends supporting this ballot measure because accruing a larger pool of public funding is an important first step in a move towards full public financing. Jenkins moved to accept the staff's recommendation regarding the trust fund cap, and Canter seconded. The motion was approved 5-0.

Holt said the third ballot measure would ban contributions from bidders on City contracts. She explained that contractor contributions have been a long-standing issue of interest for the Ethics Commission, which has been involved in several attempts at reform in this area. She said that the staff recommends supporting this request for a ballot measure and also makes a number of recommendations regarding the details of the proposal. Vanaman asked

if the draft language in the attachments was drafted by the City Attorney, and Holt replied that they were drafted by Commission staff as a starting point for the City Attorney's office. She noted that the City Attorney's office supports most of the staff's recommendations.

With regard to when the ban should apply, Holt said the staff recommends that it begin on the date a person submits a bid on a City contract and end on the date that the contract is signed (for unsuccessful bidders) or 12 months after the contract is signed (for successful bidders). Holt explained that this recommendation reflects the revolving door provision in the Governmental Ethics Ordinance (GEO), which prohibits former City officials from attempting to influence matters in their former departments for 12 months. Vanaman moved to accept staff's recommendation, and Jenkins seconded. Canter asked about making the ban begin earlier than the date a bid is submitted. Holt noted that would be difficult to implement, because it would require knowing when the City might invite bids and who might respond. Canter expressed concern about the recommendation, noting that there are very few instances in which a potential bidder would be caught off-guard about a possible contract. The motion passed 4-1.

Jenkins moved to accept the staff's recommendations to apply the ban to the first-tier subcontractors, and Canter seconded. The motion passed 5-0.

Jenkins moved to accept the staff's recommendation that bidders be required to identify their agents, subcontractors, and subcontractor agents in their bid documents, and that the definition of agent, bidder, contract, and subcontractor be defined as proposed in the draft language, and Vanaman seconded. The motion passed 5-0.

Jenkins expressed concern about the recommendation to apply the ban to recipients who know or have reason to know that the donor is subject to the ban. She stated that, in theory that makes sense, but the provision would not work without a comprehensive database. She suggested writing a letter to the Mayor, or the appropriate department, to address the Commission's concerns regarding the lack of a comprehensive database on City contractors. The Commission agreed that a letter would be appropriate. Jenkins stated that the onus should be on the bidder and not on the elected official. Holt explained that the staff believes that there is value in placing responsibility on both the potential bidder and the elected official. The recommendation includes the "know or have reason to know" language to make that responsibility reasonable. Zukin said she agrees with the staff's recommendation, with the caveat that the database is needed. The recommendation was approved 5-0. Holt clarified that the vote also approved the recommendation to require the departments to notify elected officials of bidders, agents, and subcontractors. The Commission agreed but said it should be a standardized notice form from the departments.

Jenkins moved to accept the staff's recommendation that the ban apply to bidders on contracts that are required by law to be approved by an elected City official, including leases, franchises, permits, licenses, grants, amendments, change orders, renewals, and extensions. The recommendation would exclude contracts that require only technical oversight approval by an elected City official. Canter seconded. The motion passed 5-0. Vanaman asked how the exclusion would be written in the law, and Holt said that specific

Charter sections require the City Attorney to sign every contract as to form and the City Controller to approve payments under a contract. She suggested that the language refer directly to those sections. Vanaman moved to accept staff's recommendation with regard to this section with the understanding that reference would be made to specific Charter sections that require the technical oversight of contracts, and Jenkins seconded. The motion passed 5-0.

Turner moved to accept the staff's recommendation that the ban apply to any City committee that is controlled by an elected official or candidate for elective City office, and Jenkins seconded. Stadel noted that the Commission has never applied any of their laws to ballot measure committees. She said the Supreme Court has said that there cannot be limits on those kinds of contributions—Berkeley had a similar provision, but it was struck down. The Fair Political Practices Commission (FPPC) also had a similar provision that was struck down, because it was considered to be outside the scope of the FPPC's authority and was not consistent with the Political Reform Act. Turner stated that, given the testimony at a previous meeting from Center for Governmental Studies President Robert Stern, he believes that contributions to elected controlled committees should be viewed as contributions to that candidate. Holt noted that City law does currently regulate fundraising of commissioners with regard to ballot measures. The motion passed 5-0.

Holt explained that the next recommendation was to apply the ban to both personal contributions and fundraising. Jenkins noted her concern that the recommendation to ban fundraising was not narrowly tailored enough. Holt noted that the staff felt like it was narrowly tailored for a variety of reasons: the ban does not last forever, it begins on a certain date and ends on a certain date; the ban only applies to a specific group of people; the ban only applies to bidders on certain types of contracts; and the proposed language includes a specific and limited definition of fundraising. Jenkins said she sees the definition as too broad. Zukin noted that having a definition of fundraising is an effort to make the law specific and narrowly tailored. Stadel said that the City Attorney's office may not be able to advise that banning fundraising is legally permissible, but if this moves forward it would have to be drafted more narrowly. Jenkins asked to receive a copy of the transmittal that will be sent to the Council.

Stadel stated this recommendation includes a ban on fundraising for lobbyists, which poses a heightened concern to the City Attorney's office because there are no temporal limitations. Holt said that the ban would only apply to lobbyists who are registered to lobby in the City. She explained that it would not apply if the registration is terminated—which can be done at any time, and all registrations are terminated automatically at the end of the year. Holt noted that the staff realizes that there are legal tensions with the recommendation to ban fundraising and contributions, but that they believe from a policy perspective it is the appropriate way to protect the perception of corruption. Canter moved to support the staff's recommendation regarding the ban on lobbyist fundraising and contributions, and Vanaman seconded. The motion passed 5-0.

Holt said the staff had several recommendations regarding the implementation of the ban. The first recommendation was that bids and other invitations to respond regarding City

contracts include notice of the ban. Jenkins moved to accept the staff's recommendation, and Canter seconded. The motion passed 5-0.

The second recommendation was to require bidders to submit an Ethics Commission form certifying that they understand and will comply with the ban and that they will notify their agents and subcontractors of the ban. It would also require awarding authorities to maintain the form with the bid documents. Jenkins moved to accept the staff's recommendations, and Canter seconded. The motion passed 5-0.

The third recommendation would exclude persons found to have violated the ban from entering into City contracts for four years from the date of the violation. Jenkins moved to accept the staff's recommendations, and Canter seconded. The motion was approved 5-0.

The final recommendation would require the Ethics Commission to notify all departments when a person is found to have violated the ban. Jenkins moved to accept the staff's recommendations, and Canter seconded. The motion was approved 5-0.

8. Continued consideration of recommendations regarding ex parte communications [Heather Holt].

Holt noted that this item was a placeholder regarding ex parte communications, so that the commissioners could raise questions or request specific information in anticipation of next month's substantive discussion of the issue. No questions or requests were made.

10. Announcements and requests to schedule items on future agendas.

Item 10 was taken out of order earlier in the meeting but was revisited after Item 8. Canter said she would like to schedule a joint meeting with the Rules & Elections Committee. She also stated that the Commission should schedule a closed session agenda item for the interviews for the executive director search unless the Commission schedules a meeting in the interim, and the Commission agreed. Vanaman asked the commissioners to plan for the next meeting to take as much time as necessary if the interviews are to take place at that meeting. The Commission agreed.

11. Adjournment.

Canter moved to adjourn the meeting, and Turner seconded. The meeting was adjourned at 11:16 a.m., by a vote of 5-0.